

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
HATTIESBURG DIVISION

MICHAEL MIMS, # 76699

PETITIONER

VERSUS

NO. 2:04cv364-KS-MTP

RONALD KING, Superintendent

RESPONDENT

ORDER SETTING EVIDENTIARY HEARING AND APPOINTING COUNSEL

THIS MATTER is before the court *sua sponte* for consideration of Michael Mims' petition for writ of habeas corpus, and the court having considered the matter and finding that an issue regarding petitioner's ineffective assistance of counsel claim needs further clarification in order to fully consider the habeas petition, the court finds that an evidentiary hearing should be held in this matter pursuant to Rule 8 of the Rules Governing Section 2254 Cases in the United States District Courts.

It further appearing that petitioner qualifies for appointed counsel pursuant to 18 U.S.C. § 3006A, the court is obligated to appoint counsel to investigate the issue to be addressed at the hearing, to prepare for the hearing, to represent the petitioner at the hearing, and to respond or object to any findings made at the hearing.

IT IS, THEREFORE, ORDERED:

1. An evidentiary hearing is set for 9:30 a.m. on January 4, 2008 before the undersigned at the James O. Eastland United States Courthouse, 245 East Capitol Street, Jackson, Mississippi. The limited issues or matters to be investigated and presented at the hearing concern whether petitioner's counsel's failure to call to testify at trial three purported alibi witnesses - Diane Mims, Shekey Evans and Demetrice McCurdy - constituted ineffective

assistance of counsel.

2. In accordance with Rule 8, the court hereby appoints the Federal Public Defender to represent the petitioner for these limited purposes.

SO ORDERED this, the 6th day of December, 2007.

s/Michael T. Parker

United States Magistrate Judge